

CHAPTER NO. 700

SENATE BILL NO. 3248

By Atchley, McNally, Fowler, Carter, Crowe

Substituted for: House Bill No. 3085

By Rinks, Haley, Pleasant

AN ACT To amend Tennessee Code Annotated, Title 62, Chapter 1, relative to accountancy.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Sections 62-1-101 through 62-1-103, are amended by deleting such sections in their entirety and substituting therefor the following new sections:

Section 62-1-101. This chapter shall be known and may be cited as the "Tennessee Accountancy Act of 1998".

Section 62-1-102. It is the policy of this state, and the purpose of this chapter, to promote the reliability of information that is used for guidance in financial transactions or for accounting for or assessing the financial status or performance of commercial, noncommercial, and governmental enterprises. The public interest requires that persons professing special competence in accountancy or offering assurance as to the reliability or fairness of presentation of such information shall have demonstrated their qualifications to do so, and that persons who have not demonstrated and maintained such qualifications, not be permitted to represent themselves as having such special competence or to offer such assurance; that the conduct of persons licensed as having special competence in accountancy be regulated in all aspects of their professional work; that a public authority competent to prescribe and assess the qualifications and to regulate the conduct of licensees be established; and that the use of titles that have a capacity or tendency to deceive the public as to the status or competence of the persons using such titles be prohibited.

Section 62-1-103. When used in this chapter, the following terms have the meanings indicated:

(1) "Attest" means providing the following services:

(A) Any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);

(B) Any review to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS);

(C) Any examination to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE);

(D) The issuance of any report (including compilation reports) prescribed by the SASs, the SSARSs or the SSAEs on any services to which those statements on standards apply, indicating that the service was performed in accordance with standards established by the American Institute of Certified Public Accountants (AICPA); and

(E) The statements on standards specified in this definition shall be adopted by reference by the board pursuant to rulemaking and shall be those developed for general application by recognized national accountancy organizations such as the AICPA;

(2) "Board" means the Tennessee State Board of Accountancy established under §62-1-104 of this chapter or its predecessor under prior law;

(3) "Certificate" means a certificate as "certified public accountant" issued under §§ 62-1-106 and 62-1-107 or corresponding provisions of prior law, or a corresponding certificate as certified public accountant issued after examination under the law of any other state;

(4) "Certified public accountant" means a person holding a certificate issued under §§62-1-106 and 62-1-107;

(5) "Client" means a person or entity that agrees to receive any professional service from a licensee;

(6) "CPA Firm" and "PA Firm" means a sole proprietorship, a corporation, a partnership or any other form of organization issued a permit under §62-1-108;

(7) "License" means a certificate issued under §62-1-107; a permit issued under §62-1-108 or a registration under §62-1-109; or, in each case, a certificate, license or permit issued under corresponding provisions of prior law;

(8) "Licensee" means the holder of a license as defined in §62-1-103(g);

(9) "Manager" means a manager of a limited liability company;

(10) "Member" means a member of a limited liability company;

(11) "Peer review" means a study, appraisal, or review of one or more aspects of the professional work of a CPA firm that performs attest services, by a qualified person or persons who hold certificates and who are not affiliated with the CPA firm being reviewed;

(12) "Permit" means a permit to practice as a CPA firm issued under §62-1-108 or corresponding provisions of prior law or under corresponding provisions of the laws of other states;

(13) "Professional" means arising out of or related to the specialized knowledge or skills associated with CPAs;

(14) "Public accountant" means a person holding a registration issued under §62-1-109;

(15) "Registration" means the registration issued to a public accountant under §62-1-109 and includes the licenses issued to public accountants under prior law;

(16) "Report", when used with reference to attest services, means an opinion, report, or other form of language that states or implies assurance as to the reliability of any financial statements or assertion. The term "Report" also includes any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing and that the service reported upon was performed under standards for such services established by the AICPA. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself;

(17) "Rule" means any rule, regulation, or other written directive of general application duly adopted by the board in accordance with the Uniform Administrative Procedures Act, Title 4, Chapter 5;

(18) "State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam; except that "this state" means the State of Tennessee; and

(19) "Substantial equivalency" is a determination by the board of accountancy or its designee that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to, or exceed the education, examination and experience requirements contained in this chapter or that an individual CPA's education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements contained in this chapter.

SECTION 2. Tennessee Code Annotated, Section 62-1-105, is amended by adding the following as new appropriately designated subsections:

() The board may adopt rules governing its administration and enforcement of this chapter and the conduct of licensees, including but not limited to:

(1) Rules governing the board's meetings and the conduct of its business;

(2) Rules of procedure governing the conduct of investigations and hearings by the board;

(3) Rules specifying the educational and experience qualifications required for the issuance of certificates under §62-1-107 of this chapter and the continuing professional education required for renewal of certificates under §62-1-107;

(4) Rules of professional conduct directed to controlling the quality and probity of services by licensees, and dealing among other things with independence, integrity, and objectivity; competence and technical standards; responsibilities to the public; and responsibilities to clients;

(5) Rules governing the manner and circumstances of use of the titles "certified public accountant" and "CPA";

(6) Rules regarding peer review that may be required to be performed under provisions of this chapter;

(7) Rules on substantial equivalence to implement §62-1-118;

(8) Rules setting fees including late fees for examination, reexamination, certification, licensure, certificate renewal, licensure renewal, registration, registration renewal, peer review and other necessary fees; and

(9) Such other rules as the board may deem necessary or appropriate for implementing the provisions and the purposes of this chapter.

() The board shall join professional organizations and associations to promote the improvement of the standards of the practice of accounting and for the protection and welfare of the public. In order to be informed about the operations and practices of other boards of accountancy desiring reciprocal exchange and in order to be advised regarding the progress of accountancy throughout the country and to promote uniformity in the regulation thereof, the board, executive director and staff shall, at the discretion of the board, travel and attend national and regional meetings of the National Association of State Boards of Accountancy ("NASBA") and other appropriate professional meetings at the expense of the board. All such travel shall be subject to and in accordance with the provisions of the Comprehensive Travel Regulations as promulgated by the Department of Finance and Administration and approved by the Attorney General.

SECTION 3. Tennessee Code Annotated, Section 62-1-105(c), is amended by deleting the phrase "permit to practice accountancy" and by substituting instead the word "certificate".

SECTION 4. Tennessee Code Annotated, Sections 62-1-106 through 62-1-111, are amended by deleting such sections in their entirety and by substituting instead the following new sections:

Section 62-1-106.

(a) The certificate of "certified public accountant" shall be granted to persons of good moral character who meet the education, experience and examination requirements of the following subsections of this section and who make application therefor pursuant to §62-1-107.

(b) Good moral character for purposes of this section means lack of a history of dishonest or felonious acts.

(c) The education requirement for a certificate, which must be met before an applicant is eligible to apply for the examination prescribed in subsection (d), shall be at least one hundred and fifty (150) semester hours of college education including a baccalaureate or higher degree conferred by a college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate.

(d) The examination required to be passed as a condition for the granting of a certificate shall be held at least twice a year, and shall test the applicant's knowledge of the subjects of accounting and auditing, and such other related subjects as the board may specify by rule, including but not limited to business law and taxation. The time for holding such examination shall be determined by the board and may be changed from time to time. The board shall prescribe by rule the methods of applying for and conducting the examination, including methods for grading papers and determining a passing grade required of an applicant for a certificate; provided, however, that the board shall to the extent possible see to it that the examination itself, grading of the examination, and the passing grades, are uniform with those applicable in all other states. The board may make such use of all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the AICPA and may contract with third parties to perform such administrative services with respect to the examination as it deems appropriate to assist it in performing its duties hereunder.

(e) An applicant shall be required to pass all sections of the examination provided for in subsection (d) in order to qualify for a certificate. A passing grade for each section shall be seventy-five (75). If at a given sitting of the examination an applicant passes two (2) or more but not all sections, then the applicant shall be given credit for those sections that the applicant has passed and need not sit for reexamination in those sections, provided that:

(1) At that sitting the applicant wrote all sections of the examination for which the applicant does not have credit;

(2) The applicant attained a minimum grade of fifty (50) on each section taken at that sitting;

(3) The applicant passes the remaining sections of the examination within six (6) consecutive examinations given after the one at which the first sections were passed;

(4) At each subsequent sitting at which the applicant seeks to pass any additional sections, the applicant writes all sections for which the applicant does not have credit; and

(5) In order to receive credit for passing additional sections in any such subsequent sitting, the applicant attains a minimum grade of fifty (50) on each section taken at that sitting.

(f) An applicant shall be given credit for any and all sections of an examination passed in another state if such credit would have been given, under then applicable requirements, if the applicant had taken the examination in this state.

(g) The board may in particular cases waive or defer any of the requirements of subsections (e) and (f) regarding the circumstances in which the various sections of the examination must be passed, upon a showing that, by reason of circumstances beyond the applicant's control, the applicant was unable to meet such requirement.

(h) An applicant may be required to pass an examination covering the rules of ethics and professional conduct promulgated by the board; such examination may be part of the examination required in subsection (d) or may be a separate examination.

(i) The board may charge, or provide for a third party administering the examination to charge each applicant a fee, in an amount prescribed by the board, for each section of the examination or reexamination taken by the applicant.

(j) An applicant for initial issuance of a certificate under this section shall show that the applicant has had one (1) year of experience. This experience shall include providing any type of service or advice involving the use of accounting, attest, management advisory, financial advisory, tax or consulting skills all of which was verified by a licensee. This experience will be acceptable if it is gained through employment in government, industry, academia or public practice.

(k) All persons holding a valid certificate as a certified public accountant issued by the State of Tennessee prior to October 1, 1998, shall be deemed to have met the requirements of this section.

Section 62-1-107.

(a) The board shall grant or renew certificates to persons who make application and demonstrate (1) that their qualifications, including where applicable the qualifications prescribed by §62-1-106, are in accordance with the following subsections of this section or (2) that they are eligible under the substantial equivalency standard set out in §62-1-118 which requires licensure for those CPAs that establish their principal office in another state. The holder of a certificate issued under this section may only provide attest services, as defined, in a CPA firm that holds a permit issued under §62-1-108.

(b) Certificates shall be initially issued, and renewed, for periods of not more than two (2) years. Every holder of a certificate as a certified public accountant or a registration as a public accountant shall be

required to renew such certificate or registration biennially. Biennial renewal dates may be set by the board at its discretion. The renewal process established by the board may include procedures for odd-numbered certificates and registrations to be renewed within two (2) years from the date of issuance on odd-numbered years, and even-numbered certificates and registrations to be renewed within two (2) years from the date of issuance on even-numbered years. The board shall set the biennial renewal fee. All certificates and registration issued by the board, and any holder of a certificate or registration shall relinquish same to the board within thirty (30) days after such certificate or registration has been suspended or revoked.

(c)(1) With regard to applicants that do not qualify for reciprocity under the substantial equivalency standard set out in §62-1-118(a)(2), the board shall issue a certificate to a licensee of another state upon a showing that:

(A) The applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades at the time in this state;

(B) The applicant had four (4) years of experience outside of this state of the type described in §62-1-106(j) or meets equivalent requirements prescribed by the board by rule, after passing the examination upon which the applicant's certificate was based and within the ten (10) years immediately preceding the application; and

(C) If the applicant's license was issued more than four (4) years prior to the application for issuance of an initial certificate under this section, that the applicant has fulfilled the requirements of continuing professional education that would have been applicable under subsection (d) of this section.

(2) As an alternative to the requirements of §62-1-107(c)(1), a licensee of another state who desires to establish their principal place of business in this state shall request the issuance of a certificate from the board prior to establishing such principal place of business. The board shall issue a certificate to such person who obtains from the board or its designee verification that such individual's CPA qualifications are substantially equivalent to the CPA licensure requirements of the Tennessee Accountancy Act.

(d) For renewal of a certificate under this section each licensee shall participate in a program of learning designed to maintain professional competency. Such program of learning must comply with rules adopted by the board. The requirements established by the board shall prescribe regulations requiring continuing education as follows: eighty (80) credit hours over a two-year period, with a minimum of twenty (20) credit hours in any one-year period as a prerequisite for the renewal of a certificate. The board may by rule create an exception to this requirement for certificate holders who do not perform or offer to perform

for the public one (1) or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or of one or more kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. Licensees granted such an exception by the board must place the word "inactive" adjacent to their CPA title or PA title on any business card, letterhead or any other document or device, with the exception of their CPA certificate or PA registration, on which their CPA or PA title appears.

(e) The board shall charge a fee for each application for initial issuance or renewal of a certificate under this section in an amount prescribed by the board by rule. The board, by rule, may not require the following persons to pay a renewal fee: inactive licensees over the age of seventy (70), disabled persons who are unable to practice accountancy for a period of time, and persons in active military service.

(f) Applicants for initial issuance or renewal of certificates under this section shall in their applications list all states in which they have applied for or hold licenses and list any past denial, revocation or suspension of a license, and each holder of or applicant for a certificate under this section shall notify the board in writing, within thirty (30) days after its occurrence, of any issuance, denial, revocation, or suspension of a license by another state, change of address or employment, or any conviction by a court of competent jurisdiction of a felony.

(g) The board shall issue a certificate to a holder of a substantially equivalent foreign designation, provided that:

(1) The foreign authority which granted the designation makes similar provision to allow a person who holds a valid certificate issued by this state to obtain such foreign authority's comparable designation; and

(2) The foreign designation:

(A) Was duly issued by a foreign authority that regulates the practice of public accountancy and the foreign designation has not expired or been revoked or suspended;

(B) Entitles the holder to issue reports upon financial statements; and

(C) Was issued upon the basis of educational, examination, and experience requirements established by the foreign authority or by law; and

(3) The applicant:

(A) Received the designation, based on educational and examination standards substantially equivalent to those in effect in this state, at the time the foreign designation was granted;

(B) Completed an experience requirement, substantially equivalent to the requirement set out in §62-1-106(j), in the jurisdiction which granted the foreign designation or has completed four (4) years of professional experience in this state; or meets equivalent requirements prescribed by the board by rule, within the ten (10) years immediately preceding the application; and

(C) Passed a uniform qualifying examination in national standards and an examination on the laws, regulations and code of ethical conduct in effect in this state acceptable to the board.

(h) An applicant under subsection (g) shall in the application list all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy, and each holder of a certificate issued under this subsection shall notify the board in writing, within thirty (30) days after its occurrence, of any issuance, denial, revocation or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction, or any conviction by a court of competent jurisdiction of a felony.

(i) The board has the sole authority to interpret the application of the provisions of subsections (g) and (h).

Section 62-1-108.

(a) The board shall grant or renew permits to practice as a CPA firm or PA firm to entities that make application and demonstrate their qualifications therefor in accordance with the following subsections of this section or to CPA firms originally licensed in another state that establish an office in this state. A firm with multiple locations shall obtain a permit for each location. A firm must hold a permit issued under this section in order to provide attest services as defined or to use the title "CPAs", "CPA firm", "PAs" or "PA firm".

(b) Permits shall be initially issued and renewed for periods of not more than two years but in any event expiring on December 31 following issuance or renewal. Applications for permits shall be made in such form, and in the case of applications for renewal, between such dates as the board may specify by rule.

(c) An applicant for initial issuance or renewal of a permit to practice under this section shall be required to show that:

(1) Notwithstanding any other provision of law, a simple majority of the ownership of the firm, in terms of financial interests (equitable ownership) and voting rights of all partners, officers, shareholders, members or managers, belongs to holders of a certificate who are licensed in some state, and such partners, officers, shareholders, members or managers, whose principal place of business is in this state, and who perform professional services in this state hold a valid certificate issued under §62-1-107 or the corresponding provision of prior law or are public accountants registered under §62-1-109. Although

firms may include non-licensee owners, such firms must be controlled by holders of a certificate who are licensed by some state and such control may not be relinquished by contract, through the issuance of minority veto rights or otherwise. The firm and its ownership must comply with rules promulgated by the board.

(2) Any individual licensee who is responsible for supervising attest services and signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm, shall meet the experience requirements set out in the professional standards for such services.

(3) Any individual licensee who signs or authorizes someone to sign the accountants' report on the financial statements on behalf of the firm shall meet the experience requirement of subdivision (2).

(d) Any CPA firm as defined in this chapter may include non-licensee owners provided that:

(1) The firm designates a Tennessee licensee/owner to provide the board with the names and amounts of equitable ownership and voting rights of all CPAs and other owners practicing in this state and the name of the resident manager of each office in this state;

(2) All non-licensee owners are active individual participants in the CPA firm or affiliated entities; and

(3) The firm complies with such other requirements as the board may impose by rule.

(e) An applicant for initial issuance or renewal of a permit to practice under this section shall be required to obtain a permit for each location of the firm within this state with the board and to show that all attest services as defined in §62-1-103(a) rendered in this state are under the charge of a person holding a valid certificate issued under §62-1-107 or the corresponding provision of prior law or some other state law.

(f) The board shall charge a fee for each application for initial issuance or renewal of a permit under this section in an amount prescribed by the board by rule. The board has the authority to establish late fees for any applications, renewals or reports which are filed late.

(g) An applicant for initial issuance or renewal of permits under this section shall in their application list all states in which they have applied for or hold permits as CPA firms and list any past denial, revocation or suspension of a permit by any other state, and each holder of or applicant for a permit under this section shall notify the board in writing, within thirty (30) days after its occurrence, of any change in the identities of partners, officers, shareholders, members or managers whose principal place of business is in this state, any change in the number or location of offices within this state, any change in the identity

of the persons in charge of such offices, and any issuance, denial, revocation, or suspension of a permit by any other state.

(h) Firms which fall out of compliance with the provisions of the section due to changes in firm ownership or personnel, after receiving or renewing a permit, shall take corrective action to bring the firm back into compliance. The board may grant a reasonable period of time for a firm to take such corrective action. Failure to bring the firm back into compliance within a reasonable period as defined by the board will result in the suspension or revocation of the firm permit.

(i) All firms holding a valid permit to practice as a CPA firm or PA firm issued by the State of Tennessee prior to October 1, 1998, shall be deemed to have met the requirements of this section.

Section 62-1-109. Persons who on the effective date of this act hold licenses as public accountants issued under prior law of this state shall be entitled to have their registrations renewed upon fulfillment of the continuing professional education requirements for renewal of certificates set out in §62-1-107 of this chapter, and on the renewal cycle and payment of fees there prescribed for renewal of certificates. Any registration not so renewed shall expire three (3) years after the effective date of this chapter. Firms of public accountants holding permits to practice as such issued under prior law of this state shall be entitled to have their permits to practice renewed pursuant to the procedures, and subject to the requirements for renewal of permits to practice for firms of certified public accountants, set out in §62-1-108 of this chapter. So long as such public accountant licensees hold valid registrations and permits to practice, they shall be entitled to perform attest services to the same extent as holders of certificates, and other holders of permits, and in addition they shall be entitled to use the title "public accountants" and "PA", but no other title. The holder of a registration issued under this section may only perform attest services in a firm that holds a permit issued under §62-1-108 of this chapter.

Section 62-1-110. Application by a person or a firm not a resident of this state for a certificate under §62-1-107 or a permit to practice under §62-1-108 shall constitute appointment of the Secretary of State as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of any transaction or operation connected with or incidental to services performed by the applicant while a licensee within this state.

Section 62-1-111.

(a) After notice and hearing pursuant to §62-1-120 of this act, the board may revoke any license issued under §§62-1-107, 62-1-108 or 62-1-109 of this chapter or corresponding provisions of prior law; suspend any such license or refuse to renew any such license for a period of not more than five (5) years; reprimand, censure, or limit the scope of practice of any licensee; impose a civil penalty, or place any licensee on probation, all with or without terms, conditions, and limitations, for any one (1) or more of the following reasons:

(1) Fraud or deceit in obtaining a license;

(2) Cancellation, revocation, suspension or refusal to renew a license or practice rights for disciplinary reasons in any other state for any cause;

(3) Failure, on the part of a licensee, to maintain compliance with the requirements for issuance or renewal of such license or to report changes to the board under §§62-1-107(f) or 62-1-108(g);

(4) Revocation or suspension of the right to practice before any state or federal agency;

(5) Dishonesty, fraud, or gross negligence in the performance of services as a licensee or in the filing or failure to file the licensee's own income tax returns;

(6) Violation of any provision of this chapter or rule promulgated by the board under this chapter or violation of professional standards;

(7) Violation of any rule of professional conduct promulgated by the board;

(8) Conviction of a felony, or of any crime an element of which is dishonesty or fraud, under the laws of the United States, of this state, or of any other state or country if the acts involved would have constituted a crime under the laws of this state;

(9) Performance of any fraudulent act while holding a certificate or permit issued under this chapter or prior law;

(10) Any conduct reflecting adversely upon the licensee's fitness to perform services while a licensee;

(11) Making any false or misleading statement or verification in support of an application for a license filed by another; and

(12) Violating the terms of any lawful order entered by the board.

(b) In lieu of or in addition to any remedy specifically provided in subsection (a) of this section, the board may require of a licensee:

(1) A peer review conducted in such fashion as the board may specify; and/or

(2) Satisfactory completion of such continuing professional education programs as the board may specify.

(c) The board shall have the power to sit as a trial board, to summon records and witnesses by subpoena and to compel their attendance, to administer oaths, and to pass judgment upon those licensed under this chapter pursuant to the Uniform Administrative Procedures Act, Title 4, Chapter 5. Prior to disciplinary actions against persons licensed under authority of this chapter, the board shall provide written notice to the parties affected by such contemplated disciplinary actions at least thirty (30) days in advance of such action pursuant to the Uniform Administrative Procedures Act, Title 4, Chapter 5. Parties

affected by any contemplated disciplinary action shall be entitled to a full hearing prior to any disciplinary action taken by the board conducted pursuant to the Uniform Administrative Procedures Act, Title 4, Chapter 5, and shall be entitled to be represented by counsel and make such defense as may be proper.

(d) In any proceeding in which a remedy provided by subsections (a) or (b) of this section is imposed, the board may also require the respondent licensee to pay all costs of the proceeding.

(e) In any case where the board renders a decision imposing discipline against a licensee under this section, the board shall examine its records to determine whether the licensee holds a certificate or a permit in any other state; and if so, the board shall notify the Board of Accountancy of such other state of its decision, by mail, within forty-five (45) days of rendering the decision. The board may also furnish information relating to proceedings resulting in disciplinary action to other public authorities and to private professional organizations having a disciplinary interest in the licensee. Where a petition for review has been filed pursuant to the Uniform Administrative Procedures Act, Title 4, Chapter 5, the notification and furnishing of information provided for in this subsection shall await the resolution of such review and, if resolution is in favor of the licensee, no such notification or furnishing of information shall be made.

SECTION 5. Tennessee Code Annotated, Section 62-1-113, is amended by deleting such section in its entirety and substituting therefor the following:

62-1-113.

(a) Only licensees may issue a report on financial statements of any other person, firm, organization, or governmental unit or otherwise offer to render or render any attest service, as defined herein. This restriction does not prohibit any act of a public official or public employee in the performance of that person's duties as such; or prohibit the performance by any person of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports thereon.

(b) Licensees performing attest services must provide those services pursuant to statements on standards relating to those services adopted by reference or directly by the board.

(c) No person not holding a valid certificate shall use or assume the title "certified public accountant", or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant.

(d) No firm shall provide attest services or assume or use the title "certified public accountants", or the abbreviation "CPAs", or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is a CPA firm unless (1) the firm holds a valid permit issued under §62-1-108, and (2) ownership of the firm is in accord with this chapter and rules promulgated by the board.

(e) No person shall assume or use the title "public accountant", or the abbreviation "PA", or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a public accountant unless that person holds a valid registration issued under §62-1-109.

(f) No firm not holding a valid permit issued under §62-1-108 of this chapter shall provide attest services or assume or use the title "public accountant", the abbreviation "PA", or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is composed of public accountants.

(g) No person or firm not holding a valid license under this chapter shall assume or use the title "certified accountant", "chartered accountant", "enrolled accountant", "licensed accountant", "registered accountant", "accredited accountant", or any other title or designation likely to be confused with the titles "certified public accountant" or "public accountant", or use any of the abbreviations "CA", "LA", "RA", "AA", or similar abbreviation likely to be confused with the abbreviations "CPA" or "PA". The title "Enrolled Agent" or "EA" may only be used by individuals so designated by the Internal Revenue Service.

(h)(1) Non-licensees may not use language in any statement relating to the financial affairs of a person or entity which is conventionally used by licensees in reports on financial statements. In this regard, the board shall issue rules providing safe harbor language that non-licensees may use in connection with such financial information.

(2) No person or firm not holding a valid license issued under §§62-1-107, 62-1-108, or 62-1-109 shall assume or use any title or designation that includes the words "accountant", or "accounting", or any other language (including the language of a report) that implies that such person or firm holds such a license or has special competence as an accountant or auditor; provided, however, that this subsection does not prohibit any officer, partner, member, manager or employee of any firm or organization from affixing that person's own signature to any statement in reference to the financial affairs of such firm or organization with any wording designating the position, title, or office that the person holds therein nor prohibit any act of a public official or employee in the performance of the person's duties as such.

(i) No person or firm holding a license under this act shall use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers or shareholders of the firm, or about any other matter; provided, however, that names of one or more former partners, members, managers or shareholders may be included in the name of a firm or its successor.

(j) None of the foregoing provisions of this section shall have any application to a person or firm holding a certification, designation, degree, or license granted in a foreign country entitling the holder thereof to engage in the practice of accountancy or its equivalent in such

country, whose activities in this state are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds such entitlement, who performs no attest services as defined and who issues no reports with respect to the financial statements of any other persons, firms, or governmental units in this state, and who does not use in this state any title or designation other than the one under which the person practices in such country, followed by a translation of such title or designation into the English language, if it is in a different language, and by the name of such country.

(k) No holder of a certificate issued under §62-1-107 of this chapter or a registration issued under §62-1-109 of this chapter shall perform attest services in any firm that does not hold a valid permit issued under §62-1-108.

(l) Nothing prohibits a licensee from engaging in personal financial planning without further regulatory requirements.

(m) No person shall conceal information relative to violations of this chapter.

SECTION 6. Tennessee Code Annotated, Section 62-1-114, is amended by deleting such section in its entirety and substituting therefor the following:

Section 62-1-114.

(a) Whenever, by reason of an investigation conducted pursuant to this chapter or otherwise, the board has reason to believe that any person or firm has knowingly engaged in acts or practices that constitute a violation of §62-1-113, the board may bring its information to the attention of the attorney general of any state (or other appropriate law enforcement officer) who may, in the officer's discretion, cause appropriate criminal proceedings to be brought thereon.

(b) Any person or firm who knowingly violates any provision of §62-1-113 shall be guilty of a Class C misdemeanor.

SECTION 7. Tennessee Code Annotated, Section 62-1-115, is amended by deleting such section in its entirety and substituting therefor the following:

Section 62-1-115.

(a) Subject to the provisions of §62-1-116, all statements, records, schedules, working papers, and memoranda incident to, or in the course of, rendering services to a client, made by a licensee or a partner, shareholder, officer, director, member, manager or employee of a licensee, except the reports submitted by the licensee to the client and except for records that are part of the client's records, shall be and remain the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary. No such statement, record, schedule, working paper, or memorandum shall be sold, transferred, or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than one (1) or more surviving partners, stockholders, members or new partners, new stockholders, or new members of the licensee, or any combined or

merged firm or successor in interest to the licensee. Nothing in this section should be construed as prohibiting any temporary transfer of working papers or other material necessary in the course of carrying out peer reviews or as otherwise interfering with the disclosure of information pursuant to §62-1-116.

(b) A licensee shall furnish to a client or former client, upon request and reasonable notice:

(1) A copy of the licensee's working papers, to the extent that such working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and

(2) Any accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account; the licensee may make and retain copies of such documents of the client when they form the basis for work done by the licensee.

(c) Nothing herein shall require a licensee to keep any working papers beyond the period prescribed in any other applicable statute.

SECTION 8. Tennessee Code Annotated, Section 62-1-116, is amended by deleting subsection (a) in its entirety and inserting in lieu thereof the following:

(a) Except by permission of the client for whom a licensee performs services or the heirs, successors, or personal representatives of such client, a licensee under this chapter shall not voluntarily disclose information communicated to the licensee by the client relating to and in connection with services rendered to the client by the licensee. Such information shall be deemed confidential; provided, however, that nothing herein shall be construed as prohibiting the disclosure of information required to be disclosed by the standards of the public accounting profession in reporting on the examination of financial statements or as prohibiting disclosures in court proceedings, in investigations or proceedings under this chapter, in ethical investigations conducted by private professional organizations, or in the course of peer reviews, or to other persons active in the organization performing services for that client on a need to know basis or to persons in the entity who need this information for the sole purpose of assuring quality control.

SECTION 9. Tennessee Code Annotated, Sections 62-1-117 through 62-1-119, are amended by deleting such sections in their entirety and substituting therefor the following:

Section 62-1-117.

(a)(1) An individual whose principal place of business is not in this state having a valid license as a certified public accountant from any state which the board or its designee has verified to be in substantial equivalence with the CPA licensure requirements of the Tennessee Accountancy Act shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of licensees of this state without the need to obtain a certificate or permit under §§62-1-107 or 62-

1-108. However, such individuals shall notify the board of their intent to enter the state under this provision and of any pending disciplinary action by any other board.

(2) An individual whose principal place of business is not in this state having a valid license as a certified public accountant from any state which the board or its designee has not verified to be in substantial equivalence with the CPA licensure requirements of the Tennessee Accountancy Act shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of licensees of this state without the need to obtain a certificate or permit under §§62-1-107 or 62-1-108 if such individual obtains from the board or its designee verification that such individual's CPA qualifications are substantially equivalent to the CPA licensure requirements of this chapter. However, such individuals shall notify the board of their intent to enter the state under this provision and of any pending disciplinary action by any other board.

(3) Any licensee of another state exercising the privilege afforded under this section hereby consents, as a condition of the granting of this privilege:

(A) to the personal and subject matter jurisdiction of the board,

(B) to comply with this chapter and the board's rules,

(C) to the appointment of the state board which issued their license as their agent upon whom process may be served in any action or proceeding by this board against the licensee.

(4) The board may utilize the service of the NASBA National Qualification Appraisal Service to verify qualifications necessary for substantial equivalency.

(b) A licensee of this state offering or rendering services or using their CPA title in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. The board shall be required to investigate any complaint made by the board of accountancy of another state.

Section 62-1-118.

(a) In any case where the board has suspended or revoked a license or refused to renew a license, the board may, upon application in writing by the person or firm affected and for good cause shown, modify the suspension, or reissue the license.

(b) The board shall by rule specify the manner in which such applications shall be made, the times within which they shall be made, and the circumstances in which hearings will be held thereon.

(c) Before reissuing, or terminating the suspension of, a license under this section, and as a condition thereto, the board may require the applicant therefor to show successful completion of specified continuing professional education; and the board may make the reinstatement of a license conditional and subject to satisfactory completion of a peer review conducted in such fashion as the board may specify.

SECTION 10. Tennessee Code Annotated, Section 62-1-121, is amended by deleting subsection (e) in its entirety and adding the following new subsections to be appropriately designated:

() The board shall budget annually in advance its expenditures for programs, services, allocated overhead or charge backs and other normal operating expenses as determined by the board. These expenditures so established, shall be budgeted at the beginning of the year by the board not to exceed the fees to be received by the board, including the excesses accumulated in the fund of the board. The Commissioner of Finance and Administration shall inform the board annually, in advance for budgeting purposes, the allocation of all overhead or charge backs to the board.

() Subject to approval of the Comptroller of the Treasury and the Commissioner of Finance and Administration, the board may also contract for services to carry out the provisions of this chapter.

SECTION 11. Tennessee Code Annotated, Sections 62-1-122 and 62-1-123, are amended by deleting the phrase "who is engaged in the practice of public accounting" wherever it appears, and by deleting the phrase "practice of public accountancy" wherever it appears and by substituting instead the language "practice of accountancy".

SECTION 12. Tennessee Code Annotated, Section 62-1-124, is deleted in its entirety.

SECTION 13. Tennessee Code Annotated, Section 62-1-201, is amended by deleting such section in its entirety and substituting instead the following:

Section 62-1-201.

(a) As used in this part, unless the context otherwise requires: "Review committee" means any person or persons carrying out, administering or overseeing peer review.

(b) The board shall require, by rule, as a condition to renewal of permits under this section, that applicants undergo, no more frequently than once every three (3) years, peer reviews conducted in such manner as the board shall specify, and such review shall include a verification that individuals in the firm who are responsible for supervising attest services and sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm meet the experience requirements set out in the professional standards for such services, provided that any such rule:

(1) Shall include reasonable provision for compliance by an applicant showing that it has, within the preceding three (3)

years, undergone a peer review that is a satisfactory equivalent to peer review generally required pursuant to this subsection;

(2) Shall require, with respect to peer reviews contemplated by subdivision (1), that they be subject to oversight by an oversight body established or sanctioned by board rule, which body shall periodically report to the board on the effectiveness of the review program under its charge, and provide to the board a listing of firms that have participated in a peer review program that is satisfactory to the board; and


(3) Shall require, with respect to peer reviews contemplated by subdivision (1), that the peer review processes be operated and documents maintained in a manner designed to preserve confidentiality pursuant to §§62-1-116 and 62-1-202, and that neither the board nor any third party (other than the oversight body) shall have access to documents furnished or generated in the course of the review.

SECTION 14. Tennessee Code Annotated, Section 62-1-202, is amended by deleting "quality review" wherever it appears and inserting in lieu thereof "peer review".

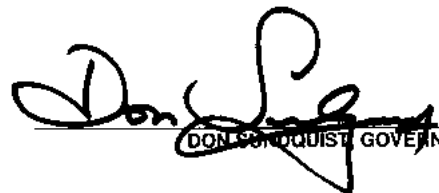
SECTION 15. If any provision of this act or the application thereof to any person or entity or in any circumstances is held invalid, the remainder of the chapter and the application of such provision to others or in other circumstances shall not be affected thereby.

SECTION 16. For the purposes of promulgating rules, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect October 1, 1998, the public welfare requiring it.


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

PASSED: March 19, 1998
APPROVED this 1st Day of April 1998


DON SUNDQUIST, GOVERNOR